

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alfredo Gonzalez	Team: Squad #7	CCRB Case #: 201408376	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 08/08/2014 1:53 PM	Location of Incident: § 87(2)(b)	Precinct: 40	18 Mo. SOL 2/8/2016	EO SOL 2/8/2016	
Date/Time CV Reported Sat, 08/09/2014 9:57 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 08/15/2014 2:51 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Jose Caban	01324	929805	PSA 7

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Myron Coleman	06965	926688	PSA 7
2. POM Jose Acevedo	31945	932234	PSA 7

Officer(s)	Allegation	Investigator Recommendation
A.SGT Jose Caban	Discourtesy: Sgt. Jose Caban spoke discourteously to § 87(2)(b)	§ 87(2)(b)
B.SGT Jose Caban	Abuse: Sgt. Jose Caban threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
C.SGT Jose Caban	Abuse: Sgt. Jose Caban threatened to arrest § 87(2)(b)	§ 87(2)(b)

### Case Summary

On August 8, 2014, at approximately 1:50 p.m., in the vicinity of § 87(2)(b) in the Bronx, § 87(2)(b) called 911 to report that his neighbors were harassing him and threatening to cause him physical harm. This was the second 911 call § 87(2)(b) had made that day. Sgt. Jose Caban, PO Jose Acevedo, and additional officers arrived at the scene. During their interaction, Sgt. Caban asked § 87(2)(b) “Why the fuck did you call me again?” and stated that he did not “give a fuck” and that § 87(2)(b) was “fucking wasting his fucking time” (**Allegation A**). Sgt. Caban then threatened to “fucking drag” § 87(2)(b) on the floor, beat him (**Allegation B**), and then arrest him (**Allegation C**).

This case was originally assigned to Investigator Simone Cherry. On December 4, 2014, the case was reassigned to Investigator Alfredo Gonzalez.

### Mediation, Civil, and Criminal Histories

§ 87(2)(b) accepted mediation, but Sgt. Caban declined to participate (encl. O2). A notice of claim inquiry was submitted on February 23, 2015, and will be added to the case file upon its receipt. § 87(2)(b) has no prior criminal history (encl. K1-K5).

### Civilian and Officer CCRB Histories

- § 87(2)(b) has had six previous CCRB complaints (encl. B1)
  - Sgt. Caban has been a member of the NYPD for 12 years and has had four allegations substantiated against him under CCRB# 200306533 for refusal to provide name and shield, retaliatory summons, offensive language, and force. The charges were later dismissed during a DCT trial. He also has a substantiated allegation of force under CCRB# 200711818, in which instructions were recommended (encl. A1-A3). § 87(2)(g)
- § 87(2)(b)
- § 87(2)(b)

### Findings and Recommendations

**Allegation A – Discourtesy: Sgt. Jose Caban spoke discourteously to § 87(2)(b)**

**Allegation B – Abuse of Authority: Sgt. Jose Caban threatened § 87(2)(b) with the use of force.**

**Allegation C – Abuse of Authority: Sgt. Jose Caban threatened to arrest § 87(2)(b)**

It is in dispute whether Sgt. Caban spoke discourteously to § 87(2)(b) threatened him with the use of force, and threatened to arrest him.

In his in-person statement, § 87(2)(b) alleged that Sgt. Caban went to his apartment, banged on his door, and asked § 87(2)(b) why “the fuck” he had called him again. § 87(2)(b) explained that he called because people with whom he had had earlier tensions were banging on his door and attempting to break in. Allegedly, Sgt. Caban then told § 87(2)(b) that he did not “give a fuck” and that he was wasting his “fucking time,” and that if § 87(2)(b) called him once more, he would “fucking” drag him on the floor, beat him, and arrest him (encl. D2-D3).

Sgt. Caban denied using any profanity towards § 87(2)(b) during their interaction. He also denied threatening him with the use of force and with an arrest. Sgt. Caban stated that he informed § 87(2)(b) that some residents had informed him that he was unlawfully in the building, something for which he could be arrested; however, due to the fact that he did not have any evidence to confirm the accusation, Sgt. Caban would give § 87(2)(b) the “benefit of the

doubt” (encl. E7). PO Acevedo, who accompanied Sgt. Caban during his interaction with § 87(2)(b) did not recall Sgt. Caban using any profanity towards § 87(2)(b) threatening him with force, or threatening him with an arrest (encl. F5). Although PO Coleman was listed on the Roll Call document as being assigned to Sector E, he stated during his interview that he was assigned to perform mail run duty from 11:30 a.m. to 3:45 p.m. Therefore, he did not witness the above-mentioned allegations (encl. G5).

§ 87(2)(g)

---

Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date